

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Sales from remote sellers.

Sponsored by: HDraft Committee

A BILL

for

1 AN ACT relating to sales tax; providing for collection of  
2 sales tax from remote sellers as specified; providing for a  
3 declaratory judgment action; providing an injunction during  
4 the pendency of the action; limiting liability for payment  
5 of the sales tax; implementing related provisions;  
6 specifying applicability; and providing for an effective  
7 date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 39-15-501 is created to read:

12

13

ARTICLE 5

## 1 SALES FROM REMOTE SELLERS

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3 **39-15-501. Sales from remote sellers.**

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5 (a) Notwithstanding any other provision of law, any  
6 seller of tangible personal property, admissions or  
7 services which are subject to taxation under article 1 of  
8 this chapter who does not have a physical presence in this  
9 state shall remit sales tax and follow all applicable  
10 procedures and requirements of this chapter as if the  
11 seller had a physical presence in this state provided that  
12 the seller meets either of the following requirements for  
13 the current calendar year or the immediately preceding  
14 calendar year:

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16 (i) The seller's gross revenue from the sale of  
17 tangible personal property, admissions or services  
18 delivered into this state exceeds one hundred thousand  
19 dollars (\$100,000.00) or

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21 (ii) The seller sold tangible personal property,  
22 admissions or services delivered into this state in two  
23 hundred (200) or more separate transactions.

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2 (b) Notwithstanding any other provision of law, the  
3 department may bring an action in this state to obtain a  
4 declaratory judgment that the obligation of the seller to  
5 remit sales tax under subsection (a) of this section is  
6 applicable and valid under state and federal law.

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8 (c) Upon the filing of an action for declaratory  
9 judgment under subsection (b) of this section, the court  
10 shall grant an injunction during the pendency of the action  
11 prohibiting the department or any other state entity from  
12 enforcing the obligation in subsection (a) of this section  
13 against any seller who is a party to the action who does  
14 not affirmatively consent or otherwise remit sales tax on a  
15 voluntary basis. No injunction shall be granted under this  
16 subsection if there is a previous judgment from a court of  
17 record in this state in a previous judgment against the  
18 seller who is a party to the action establishing the  
19 validity of the obligation under subsection (a) of this  
20 section.

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22 (d) If a court has entered a judgment against a  
23 seller or otherwise lifted or dissolved an injunction under

1 this section, the department shall assess and apply the  
2 obligation under subsection (a) of this section from the  
3 date the judgment is entered or the injunction is lifted  
4 with respect to that seller.

5  
6 (e) A seller complying with this section voluntarily  
7 or pursuant to an action brought under this section may  
8 seek a recovery of taxes, penalties or interest by  
9 following the procedures established in this chapter. No  
10 claim for a refund or recovery of taxes, penalties or  
11 interest shall be granted on the basis that the seller  
12 lacked a physical presence in this state and complied with  
13 this section voluntarily while under the protection of an  
14 injunction granted under this section. Nothing in this  
15 subsection shall limit the ability of a seller to obtain a  
16 refund or recovery of taxes, penalties or interest for any  
17 other reason including mistake of fact or a miscalculation  
18 of the applicable tax.

19  
20 (f) No seller who remits sales tax voluntarily or  
21 otherwise under this section shall be liable to any person  
22 who claims that the sales tax has been over-collected if  
23 any provision of this act is later deemed unlawful.

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2 (g) Nothing in this section shall be construed to  
3 affect the obligation of any purchaser in this state to  
4 remit use tax for any applicable transaction.

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6 **Section 2.** W.S. 39-15-101(a)(xv) is amended to read:

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8 **39-15-101. Definitions.**

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10 (a) As used in this article:

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12 (xv) "Vendor" means any person engaged in the  
13 business of selling at retail or wholesale tangible  
14 personal property, admissions or services which are subject  
15 to taxation under this article. "Vendor" includes a vehicle  
16 dealer as defined by W.S. 31-16-101(a)(xviii) and a remote  
17 seller to the extent provided by W.S. 39-15-501;

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19 **Section 3.** This act shall not apply to any tax  
20 liability arising prior to the effective date of this act.

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22 **Section 4.** This act is effective immediately upon  
23 completion of all acts necessary for a bill to become law

1 as provided by Article 4, Section 8 of the Wyoming  
2 Constitution.

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4

(END)